

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1506

AN ACT

AMENDING SECTIONS 42-5074 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO
TRANSACTION PRIVILEGE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5074, Arizona Revised Statutes, is amended to
3 read:

4 42-5074. Restaurant classification

5 A. The restaurant classification is comprised of the business of
6 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
7 soda fountains, catering services or similar establishments where articles of
8 food or drink are sold for consumption on or off the premises.

9 B. The tax base for the restaurant classification is the gross
10 proceeds of sales or gross income derived from the business. The gross
11 proceeds of sales or gross income derived from the following shall be
12 deducted from the tax base:

13 1. Sales to a person engaged in business classified under the
14 restaurant classification if the items sold are to be resold in the regular
15 course of the business.

16 2. Sales by a congressionally chartered veterans organization of food
17 or drink prepared for consumption on the premises leased, owned or maintained
18 by the organization.

19 3. Sales by churches, fraternal benefit societies and other nonprofit
20 organizations, as these organizations are defined in the federal internal
21 revenue code (26 United States Code section 501), which do not regularly
22 engage or continue in the restaurant business for the purpose of
23 fund-raising.

24 4. Sales by a nonprofit organization that is exempt from taxation
25 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code
26 if the organization is associated with a major league baseball team or a
27 national touring professional golfing association and no part of the
28 organization's net earnings inures to the benefit of any private shareholder
29 or individual.

30 5. Sales at a rodeo featuring primarily farm and ranch animals in this
31 state by a nonprofit organization that is exempt from taxation under section
32 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
33 revenue code and no part of the organization's net earnings inures to the
34 benefit of any private shareholder or individual.

35 6. Sales by any nonprofit organization organized and operated
36 exclusively for charitable purposes and recognized by the United States
37 internal revenue service under section 501(c)(3) of the internal revenue
38 code.

39 7. Sales to qualifying hospitals as defined in section 42-5001.

40 8. Sales to a qualifying health care organization as defined in
41 section 42-5001 if the tangible personal property is used by the organization
42 solely to provide health and medical related educational and charitable
43 services.

44 9. Sales of food, drink and condiment for consumption within the
45 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

3 10. Sales of catered food, drink and condiment to a motion picture
4 production company. To qualify for this deduction, at the time of purchase,
5 the motion picture production company must present to the business its
6 certificate of qualification that is issued pursuant to section 42-5009,
7 subsection H and that establishes its qualification for the deduction.

8 11. PREPARED FOOD, DRINK OR CONDIMENT DONATED BY A RESTAURANT TO A
9 NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3)
10 OF THE INTERNAL REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND
11 INDIGENT ON A CONTINUING BASIS AT NO COST.

12 C. The tax imposed on the restaurant classification pursuant to this
13 section does not apply to the gross proceeds of sales or gross income from
14 tangible personal property sold to a commercial airline consisting of food,
15 beverages and condiments and accessories used for serving the food and
16 beverages, if those items are to be provided without additional charge to
17 passengers for consumption in flight. For the purposes of this subsection,
18 "commercial airline" means a person holding a federal certificate of public
19 convenience and necessity or foreign air carrier permit for air
20 transportation to transport persons, property or United States mail in
21 intrastate, interstate or foreign commerce.

22 D. The department shall separately account for revenues collected
23 under the restaurant classification for purposes of section 42-5029,
24 subsection D, paragraph 4, subdivision (b).

25 E. For purposes of section 42-5032.01, the department shall separately
26 account for revenues collected under the restaurant classification from
27 businesses operating restaurants, dining rooms, lunchrooms, lunch stands,
28 soda fountains, catering services or similar establishments:

29 1. On the premises of a multipurpose facility that is owned or
30 operated by the tourism and sports authority pursuant to title 5, chapter 8
31 for consumption on or off the premises.

32 2. At professional football contests that are held in a stadium
33 located on the campus of an institution under the jurisdiction of the Arizona
34 board of regents.

35 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:
36 42-5159. Exemptions

37 A. The tax levied by this article does not apply to the storage, use
38 or consumption in this state of the following described tangible personal
39 property:

40 1. Tangible personal property sold in this state, the gross receipts
41 from the sale of which are included in the measure of the tax imposed by
42 articles 1 and 2 of this chapter.

43 2. Tangible personal property the sale or use of which has already
44 been subjected to an excise tax at a rate equal to or exceeding the tax
45 imposed by this article under the laws of another state of the United States.

1 If the excise tax imposed by the other state is at a rate less than the tax
2 imposed by this article, the tax imposed by this article is reduced by the
3 amount of the tax already imposed by the other state.

4 3. Tangible personal property, the storage, use or consumption of
5 which the constitution or laws of the United States prohibit this state from
6 taxing or to the extent that the rate or imposition of tax is
7 unconstitutional under the laws of the United States.

8 4. Tangible personal property which directly enters into and becomes
9 an ingredient or component part of any manufactured, fabricated or processed
10 article, substance or commodity for sale in the regular course of business.

11 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
12 which in this state is subject to the tax imposed under title 28, chapter 16,
13 article 1, use fuel which is sold to or used by a person holding a valid
14 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
15 the sales, distribution or use of which in this state is subject to the tax
16 imposed under section 28-8344, and jet fuel, the sales, distribution or use
17 of which in this state is subject to the tax imposed under article 8 of this
18 chapter.

19 6. Tangible personal property brought into this state by an individual
20 who was a nonresident at the time the property was purchased for storage, use
21 or consumption by the individual if the first actual use or consumption of
22 the property was outside this state, unless the property is used in
23 conducting a business in this state.

24 7. Purchases of implants used as growth promotants and injectable
25 medicines, not already exempt under paragraph 16 of this subsection, for
26 livestock and poultry owned by, or in possession of, persons who are engaged
27 in producing livestock, poultry, or livestock or poultry products, or who are
28 engaged in feeding livestock or poultry commercially. For the purposes of
29 this paragraph, "poultry" includes ratites.

30 8. Livestock, poultry, supplies, feed, salts, vitamins and other
31 additives for use or consumption in the businesses of farming, ranching and
32 feeding livestock or poultry, not including fertilizers, herbicides and
33 insecticides. For the purposes of this paragraph, "poultry" includes
34 ratites.

35 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
36 material for use in commercially producing agricultural, horticultural,
37 viticultural or floricultural crops in this state.

38 10. Tangible personal property not exceeding two hundred dollars in any
39 one month purchased by an individual at retail outside the continental limits
40 of the United States for the individual's own personal use and enjoyment.

41 11. Advertising supplements which are intended for sale with newspapers
42 published in this state and which have already been subjected to an excise
43 tax under the laws of another state in the United States which equals or
44 exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased

1 from the parent or an affiliate organization that is located outside this
2 state.

3 (i) A qualifying community health center as defined in section
4 42-5001.

5 (j) A nonprofit charitable organization that has qualified under
6 section 501(c)(3) of the internal revenue code and that regularly serves
7 meals to the needy and indigent on a continuing basis at no cost.

8 (k) A person engaged in business under the transient lodging
9 classification if the property is a personal hygiene item or articles used by
10 human beings for food, drink or condiment, except alcoholic beverages, which
11 are furnished without additional charge to and intended to be consumed by the
12 transient during the transient's occupancy.

13 (l) For taxable periods beginning from and after June 30, 2001, a
14 nonprofit charitable organization that has qualified under section 501(c)(3)
15 of the internal revenue code and that provides residential apartment housing
16 for low income persons over sixty-two years of age in a facility that
17 qualifies for a federal housing subsidy, if the tangible personal property is
18 used by the organization solely to provide residential apartment housing for
19 low income persons over sixty-two years of age in a facility that qualifies
20 for a federal housing subsidy.

21 14. Commodities, as defined by title 7 United States Code section 2,
22 that are consigned for resale in a warehouse in this state in or from which
23 the commodity is deliverable on a contract for future delivery subject to the
24 rules of a commodity market regulated by the United States commodity futures
25 trading commission.

26 15. Tangible personal property sold by:

27 (a) Any nonprofit organization organized and operated exclusively for
28 charitable purposes and recognized by the United States internal revenue
29 service under section 501(c)(3) of the internal revenue code.

30 (b) A nonprofit organization that is exempt from taxation under
31 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
32 organization is associated with a major league baseball team or a national
33 touring professional golfing association and no part of the organization's
34 net earnings inures to the benefit of any private shareholder or individual.

35 (c) A nonprofit organization that is exempt from taxation under
36 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
37 internal revenue code if the organization sponsors or operates a rodeo
38 featuring primarily farm and ranch animals and no part of the organization's
39 net earnings inures to the benefit of any private shareholder or individual.

40 16. Drugs and medical oxygen, including delivery hose, mask or tent,
41 regulator and tank, on the prescription of a member of the medical, dental or
42 veterinarian profession who is licensed by law to administer such substances.

43 17. Prosthetic appliances, as defined in section 23-501, prescribed or
44 recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

4 19. Insulin, insulin syringes and glucose test strips.

5 20. Hearing aids as defined in section 36-1901.

6 21. Durable medical equipment which has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32, chapter
9 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
10 used to serve a medical purpose, is generally not useful to a person in the
11 absence of illness or injury and is appropriate for use in the home.

12 22. Food, as provided in and subject to the conditions of article 3 of
13 this chapter and section 42-5074.

14 23. Items purchased with United States department of agriculture food
15 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
16 958) or food instruments issued under section 17 of the child nutrition act
17 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
18 section 1786).

19 24. Food and drink provided without monetary charge by a taxpayer which
20 is subject to section 42-5074 to its employees for their own consumption on
21 the premises during the employees' hours of employment.

22 25. Tangible personal property that is used or consumed in a business
23 subject to section 42-5074 for human food, drink or condiment, whether
24 simple, mixed or compounded.

25 26. Food, drink or condiment and accessory tangible personal property
26 if they are to be prepared and served to persons for consumption on the
27 premises of a public school in a school district during school hours.

28 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
29 article 1.

30 28. Textbooks, sold by a bookstore, that are required by any state
31 university or community college.

32 29. Magazines, other periodicals or other publications produced by this
33 state to encourage tourist travel.

34 30. Paper machine clothing, such as forming fabrics and dryer felts,
35 purchased by a paper manufacturer and directly used or consumed in paper
36 manufacturing.

37 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
38 purchased by a qualified environmental technology manufacturer, producer or
39 processor as defined in section 41-1514.02 and directly used or consumed in
40 the generation or provision of on-site power or energy solely for
41 environmental technology manufacturing, producing or processing or
42 environmental protection. This paragraph shall apply for fifteen full
43 consecutive calendar or fiscal years from the date the first paper
44 manufacturing machine is placed in service. In the case of an environmental
45 technology manufacturer, producer or processor who does not manufacture

1 paper, the time period shall begin with the date the first manufacturing,
2 processing or production equipment is placed in service.

3 32. Motor vehicles that are removed from inventory by a motor vehicle
4 dealer as defined in section 28-4301 and that are provided to:

5 (a) Charitable or educational institutions that are exempt from
6 taxation under section 501(c)(3) of the internal revenue code.

7 (b) Public educational institutions.

8 (c) State universities or affiliated organizations of a state
9 university if no part of the organization's net earnings inures to the
10 benefit of any private shareholder or individual.

11 33. Natural gas or liquefied petroleum gas used to propel a motor
12 vehicle.

13 34. Machinery, equipment, technology or related supplies that are only
14 useful to assist a person who is physically disabled as defined in section
15 46-191, has a developmental disability as defined in section 36-551 or has a
16 head injury as defined in section 41-3201 to be more independent and
17 functional.

18 35. Liquid, solid or gaseous chemicals used in manufacturing,
19 processing, fabricating, mining, refining, metallurgical operations, research
20 and development and, beginning on January 1, 1999, printing, if using or
21 consuming the chemicals, alone or as part of an integrated system of
22 chemicals, involves direct contact with the materials from which the product
23 is produced for the purpose of causing or permitting a chemical or physical
24 change to occur in the materials as part of the production process. This
25 paragraph does not include chemicals that are used or consumed in activities
26 such as packaging, storage or transportation but does not affect any
27 exemption for such chemicals that is otherwise provided by this section. For
28 the purposes of this paragraph, "printing" means a commercial printing
29 operation and includes job printing, engraving, embossing, copying and
30 bookbinding.

31 36. Food, drink and condiment purchased for consumption within the
32 premises of any prison, jail or other institution under the jurisdiction of
33 the state department of corrections, the department of public safety, the
34 department of juvenile corrections or a county sheriff.

35 37. A motor vehicle and any repair and replacement parts and tangible
36 personal property becoming a part of such motor vehicle sold to a motor
37 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
38 and who is engaged in the business of leasing or renting such property.

39 38. Tangible personal property which is or directly enters into and
40 becomes an ingredient or component part of cards used as prescription plan
41 identification cards.

42 39. Overhead materials or other tangible personal property that is used
43 in performing a contract between the United States government and a
44 manufacturer, modifier, assembler or repairer, including property used in
45 performing a subcontract with a government contractor who is a manufacturer,

1 modifier, assembler or repairer, to which title passes to the government
2 under the terms of the contract or subcontract. For the purposes of this
3 paragraph:

4 (a) "Overhead materials" means tangible personal property, the gross
5 proceeds of sales or gross income derived from which would otherwise be
6 included in the retail classification, and which are used or consumed in the
7 performance of a contract, the cost of which is charged to an overhead
8 expense account and allocated to various contracts based upon generally
9 accepted accounting principles and consistent with government contract
10 accounting standards.

11 (b) "Subcontract" means an agreement between a contractor and any
12 person who is not an employee of the contractor for furnishing of supplies or
13 services that, in whole or in part, are necessary to the performance of one
14 or more government contracts, or under which any portion of the contractor's
15 obligation under one or more government contracts is performed, undertaken or
16 assumed, and that includes provisions causing title to overhead materials or
17 other tangible personal property used in the performance of the subcontract
18 to pass to the government or that includes provisions incorporating such
19 title passing clauses in a government contract into the subcontract.

20 40. Through December 31, 1994, tangible personal property sold pursuant
21 to a personal property liquidation transaction, as defined in section
22 42-5061. From and after December 31, 1994, tangible personal property sold
23 pursuant to a personal property liquidation transaction, as defined in
24 section 42-5061, if the gross proceeds of the sales were included in the
25 measure of the tax imposed by article 1 of this chapter or if the personal
26 property liquidation was a casual activity or transaction.

27 41. Wireless telecommunications equipment that is held for sale or
28 transfer to a customer as an inducement to enter into or continue a contract
29 for telecommunications services that are taxable under section 42-5064.

30 42. Alternative fuel, as defined in section 1-215, purchased by a used
31 oil fuel burner who has received a permit to burn used oil or used oil fuel
32 under section 49-426 or 49-480.

33 43. Tangible personal property purchased by a commercial airline and
34 consisting of food, beverages and condiments and accessories used for serving
35 the food and beverages, if those items are to be provided without additional
36 charge to passengers for consumption in flight. For the purposes of this
37 paragraph, "commercial airline" means a person holding a federal certificate
38 of public convenience and necessity or foreign air carrier permit for air
39 transportation to transport persons, property or United States mail in
40 intrastate, interstate or foreign commerce.

41 44. Alternative fuel vehicles if the vehicle was manufactured as a
42 diesel fuel vehicle and converted to operate on alternative fuel and
43 equipment that is installed in a conventional diesel fuel motor vehicle to
44 convert the vehicle to operate on an alternative fuel, as defined in section
45 1-215.

1 45. Gas diverted from a pipeline, by a person engaged in the business
2 of operating a natural or artificial gas pipeline, and used or consumed for
3 the sole purpose of fueling compressor equipment that pressurizes the
4 pipeline.

5 46. Tangible personal property that is excluded, exempt or deductible
6 from transaction privilege tax pursuant to section 42-5063.

7 47. Tangible personal property purchased to be incorporated or
8 installed as part of environmental response or remediation activities under
9 section 42-5075, subsection B, paragraph 6.

10 48. Tangible personal property sold by a nonprofit organization that is
11 exempt from taxation under section 501(c)(6) of the internal revenue code if
12 the organization produces, organizes or promotes cultural or civic related
13 festivals or events and no part of the organization's net earnings inures to
14 the benefit of any private shareholder or individual.

15 49. PREPARED FOOD, DRINK OR CONDIMENT DONATED BY A RESTAURANT AS
16 CLASSIFIED IN SECTION 42-5074, SUBSECTION A TO A NONPROFIT CHARITABLE
17 ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL
18 REVENUE CODE AND THAT REGULARLY SERVES MEALS TO THE NEEDY AND INDIGENT ON A
19 CONTINUING BASIS AT NO COST.

20 B. In addition to the exemptions allowed by subsection A of this
21 section, the following categories of tangible personal property are also
22 exempt:

23 1. Machinery, or equipment, used directly in manufacturing,
24 processing, fabricating, job printing, refining or metallurgical operations.
25 The terms "manufacturing", "processing", "fabricating", "job printing",
26 "refining" and "metallurgical" as used in this paragraph refer to and include
27 those operations commonly understood within their ordinary meaning.
28 "Metallurgical operations" includes leaching, milling, precipitating,
29 smelting and refining.

30 2. Machinery, or equipment, used directly in the process of extracting
31 ores or minerals from the earth for commercial purposes, including equipment
32 required to prepare the materials for extraction and handling, loading or
33 transporting such extracted material to the surface. "Mining" includes
34 underground, surface and open pit operations for extracting ores and
35 minerals.

36 3. Tangible personal property sold to persons engaged in business
37 classified under the telecommunications classification under section 42-5064
38 and consisting of central office switching equipment, switchboards, private
39 branch exchange equipment, microwave radio equipment and carrier equipment
40 including optical fiber, coaxial cable and other transmission media which are
41 components of carrier systems.

42 4. Machinery, equipment or transmission lines used directly in
43 producing or transmitting electrical power, but not including distribution.
44 Transformers and control equipment used at transmission substation sites
45 constitute equipment used in producing or transmitting electrical power.

1 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
2 to be used as breeding or production stock, including sales of breedings or
3 ownership shares in such animals used for breeding or production.

4 6. Pipes or valves four inches in diameter or larger used to transport
5 oil, natural gas, artificial gas, water or coal slurry, including compressor
6 units, regulators, machinery and equipment, fittings, seals and any other
7 part that is used in operating the pipes or valves.

8 7. Aircraft, navigational and communication instruments and other
9 accessories and related equipment sold to:

10 (a) A person holding a federal certificate of public convenience and
11 necessity, a supplemental air carrier certificate under federal aviation
12 regulations (14 Code of Federal Regulations part 121) or a foreign air
13 carrier permit for air transportation for use as or in conjunction with or
14 becoming a part of aircraft to be used to transport persons, property or
15 United States mail in intrastate, interstate or foreign commerce.

16 (b) Any foreign government for use by such government outside of this
17 state, or sold to persons who are not residents of this state and who will
18 not use such property in this state other than in removing such property from
19 this state.

20 8. Machinery, tools, equipment and related supplies used or consumed
21 directly in repairing, remodeling or maintaining aircraft, aircraft engines
22 or aircraft component parts by or on behalf of a certificated or licensed
23 carrier of persons or property.

24 9. Rolling stock, rails, ties and signal control equipment used
25 directly to transport persons or property.

26 10. Machinery or equipment used directly to drill for oil or gas or
27 used directly in the process of extracting oil or gas from the earth for
28 commercial purposes.

29 11. Buses or other urban mass transit vehicles which are used directly
30 to transport persons or property for hire or pursuant to a governmentally
31 adopted and controlled urban mass transportation program and which are sold
32 to bus companies holding a federal certificate of convenience and necessity
33 or operated by any city, town or other governmental entity or by any person
34 contracting with such governmental entity as part of a governmentally adopted
35 and controlled program to provide urban mass transportation.

36 12. Groundwater measuring devices required under section 45-604.

37 13. New machinery and equipment consisting of tractors, tractor-drawn
38 implements, self-powered implements, machinery and equipment necessary for
39 extracting milk, and machinery and equipment necessary for cooling milk and
40 livestock, and drip irrigation lines not already exempt under paragraph 6 of
41 this subsection and that are used for commercial production of agricultural,
42 horticultural, viticultural and floricultural crops and products in this
43 state. For the purposes of this paragraph:

1 (a) "New machinery and equipment" means machinery or equipment which
2 has never been sold at retail except pursuant to leases or rentals which do
3 not total two years or more.

4 (b) "Self-powered implements" includes machinery and equipment that
5 are electric-powered.

6 14. Machinery or equipment used in research and development. For the
7 purposes of this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing, developing
9 or testing prototypes, processes or new products, including research and
10 development of computer software that is embedded in or an integral part of
11 the prototype or new product or that is required for machinery or equipment
12 otherwise exempt under this section to function effectively. Research and
13 development do not include manufacturing quality control, routine consumer
14 product testing, market research, sales promotion, sales service, research in
15 social sciences or psychology, computer software research that is not
16 included in the definition of research and development, or other
17 nontechnological activities or technical services.

18 15. Machinery and equipment that are purchased by or on behalf of the
19 owners of a soundstage complex and primarily used for motion picture,
20 multimedia or interactive video production in the complex. This paragraph
21 applies only if the initial construction of the soundstage complex begins
22 after June 30, 1996 and before January 1, 2002 and the machinery and
23 equipment are purchased before the expiration of five years after the start
24 of initial construction. For the purposes of this paragraph:

25 (a) "Motion picture, multimedia or interactive video production"
26 includes products for theatrical and television release, educational
27 presentations, electronic retailing, documentaries, music videos, industrial
28 films, CD-ROM, video game production, commercial advertising and television
29 episode production and other genres that are introduced through developing
30 technology.

31 (b) "Soundstage complex" means a facility of multiple stages including
32 production offices, construction shops and related areas, prop and costume
33 shops, storage areas, parking for production vehicles and areas that are
34 leased to businesses that complement the production needs and orientation of
35 the overall facility.

36 16. Tangible personal property that is used by either of the following
37 to receive, store, convert, produce, generate, decode, encode, control or
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

42 (b) Any satellite television or data transmission facility, if both of
43 the following conditions are met:

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 parts 25 and 100.

4 (ii) Over two-thirds of the transmissions, measured in megabytes,
5 transmitted by or on behalf of those direct broadcast television or data
6 transmission services during the test period were transmitted by the facility
7 to or on behalf of those services.

8 For the purposes of subdivision (b) of this paragraph, "test period" means
9 the three hundred sixty-five day period beginning on the later of the date on
10 which the tangible personal property is purchased or the date on which the
11 direct broadcast satellite television or data transmission service first
12 transmits information to its customers.

13 17. Clean rooms that are used for manufacturing, processing,
14 fabrication or research and development, as defined in paragraph 14 of this
15 subsection, of semiconductor products. For the purposes of this paragraph,
16 "clean room" means all property that comprises or creates an environment
17 where humidity, temperature, particulate matter and contamination are
18 precisely controlled within specified parameters, without regard to whether
19 the property is actually contained within that environment or whether any of
20 the property is affixed to or incorporated into real property. Clean room:

21 (a) Includes the integrated systems, fixtures, piping, movable
22 partitions, lighting and all property that is necessary or adapted to reduce
23 contamination or to control airflow, temperature, humidity, chemical purity
24 or other environmental conditions or manufacturing tolerances, as well as the
25 production machinery and equipment operating in conjunction with the clean
26 room environment.

27 (b) Does not include the building or other permanent, nonremovable
28 component of the building that houses the clean room environment.

29 18. Machinery and equipment that are used directly in the feeding of
30 poultry, the environmental control of housing for poultry, the movement of
31 eggs within a production and packaging facility or the sorting or cooling of
32 eggs. This exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,
34 that is employed in connection with manufacturing, processing, fabricating,
35 job printing, refining, mining, natural gas pipelines, metallurgical
36 operations, telecommunications, producing or transmitting electricity or
37 research and development and that is used directly to meet or exceed rules or
38 regulations adopted by the federal energy regulatory commission, the United
39 States environmental protection agency, the United States nuclear regulatory
40 commission, the Arizona department of environmental quality or a political
41 subdivision of this state to prevent, monitor, control or reduce land, water
42 or air pollution.

43 20. Machinery and equipment that are used in the commercial production
44 of livestock, livestock products or agricultural, horticultural, viticultural
45 or floricultural crops or products in this state and that are used directly

1 and primarily to prevent, monitor, control or reduce air, water or land
2 pollution.

3 21. Machinery or equipment that enables a television station to
4 originate and broadcast or to receive and broadcast digital television
5 signals and that was purchased to facilitate compliance with the
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
7 Code section 336) and the federal communications commission order issued
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station
15 has ceased analog broadcasting, or purchased after November 1, 2009,
16 whichever occurs first.

17 22. Qualifying equipment that is purchased from and after June 30, 2004
18 through June 30, 2014 by a qualified business under section 41-1516 for
19 harvesting or the initial processing of qualifying forest products removed
20 from qualifying projects as defined in section 41-1516. To qualify for this
21 exemption, the qualified business must obtain and present its certification
22 from the department of commerce at the time of purchase.

23 23. Machinery, equipment and other tangible personal property used
24 directly in motion picture production by a motion picture production
25 company. To qualify for this ~~deduction~~ EXEMPTION, at the time of purchase,
26 the motion picture production company must present to the retailer its
27 certificate that is issued pursuant to section 42-5009, subsection H and that
28 establishes its qualification for the ~~deduction~~ EXEMPTION.

29 C. The exemptions provided by subsection B of this section do not
30 include:

31 1. Expendable materials. For the purposes of this paragraph,
32 expendable materials do not include any of the categories of tangible
33 personal property specified in subsection B of this section regardless of the
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing
38 activities, other than the telecommunications transmissions described in
39 subsection B, paragraph 16 of this section.

40 5. Motor vehicles required to be licensed by this state, except buses
41 or other urban mass transit vehicles specifically exempted pursuant to
42 subsection B, paragraph 11 of this section, without regard to the use of such
43 motor vehicles.

44 6. Shops, buildings, docks, depots and all other materials of whatever
45 kind or character not specifically included as exempt.

1 7. Motors and pumps used in drip irrigation systems.

2 D. The following shall be deducted in computing the purchase price of
3 electricity by a retail electric customer from a utility business:

4 1. Revenues received from sales of ancillary services, electric
5 distribution services, electric generation services, electric transmission
6 services and other services related to providing electricity to a retail
7 electric customer who is located outside this state for use outside this
8 state if the electricity is delivered to a point of sale outside this state.

9 2. Revenues received from providing electricity, including ancillary
10 services, electric distribution services, electric generation services,
11 electric transmission services and other services related to providing
12 electricity with respect to which the transaction privilege tax imposed under
13 section 42-5063 has been paid.

14 E. The tax levied by this article does not apply to:

15 1. The storage, use or consumption in Arizona of machinery, equipment,
16 materials or other tangible personal property if used directly and
17 predominantly to construct a qualified environmental technology
18 manufacturing, producing or processing facility, as described in section
19 41-1514.02. This paragraph applies for ten full consecutive calendar or
20 fiscal years after the start of initial construction.

21 2. The purchase of electricity by a qualified environmental technology
22 manufacturer, producer or processor as defined in section 41-1514.02 that is
23 used directly in environmental technology manufacturing, producing or
24 processing. This paragraph shall apply for fifteen full consecutive calendar
25 or fiscal years from the date the first paper manufacturing machine is placed
26 in service. In the case of an environmental technology manufacturer,
27 producer or processor who does not manufacture paper, the time period shall
28 begin with the date the first manufacturing, processing or production
29 equipment is placed in service.

30 F. The following shall be deducted in computing the purchase price of
31 electricity by a retail electric customer from a utility business:

32 1. Fees charged by a municipally owned utility to persons constructing
33 residential, commercial or industrial developments or connecting residential,
34 commercial or industrial developments to a municipal utility system or
35 systems if the fees are segregated and used only for capital expansion,
36 system enlargement or debt service of the utility system or systems.

37 2. Reimbursement or contribution compensation to any person or persons
38 owning a utility system for property and equipment installed to provide
39 utility access to, on or across the land of an actual utility consumer if the
40 property and equipment become the property of the utility. This deduction
41 shall not exceed the value of such property and equipment.

42 G. For the purposes of subsection B of this section:

43 1. "Aircraft" includes:

1 (a) An airplane flight simulator that is approved by the federal
2 aviation administration for use as a phase II or higher flight simulator
3 under appendix H, 14 Code of Federal Regulations part 121.

4 (b) Tangible personal property that is permanently affixed or attached
5 as a component part of an aircraft that is owned or operated by a
6 certificated or licensed carrier of persons or property.

7 2. "Other accessories and related equipment" includes aircraft
8 accessories and equipment such as ground service equipment that physically
9 contact aircraft at some point during the overall carrier operation.

10 H. For the purposes of subsection D of this section, "ancillary
11 services", "electric distribution service", "electric generation service",
12 "electric transmission service" and "other services" have the same meanings
13 prescribed in section 42-5063.